IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**and**
**THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY**

**WRIT APPEAL NO : 99 of 1999**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 11/12/1998 in WP NO: 17628 OF 1989 on the file of the High Court.)

Between:

Dr.B.R.Bapuji S/o.A.Rama Mohana Rao

Research Scientist 'B'(Equivalent to that of a Reader of the University in Linguistics,

Department of Linguistics Osmania University,

R/o.C-44, Film Nagar, Jubilee Hills, Hyderabad-500 034

**..... APPELLANT**

AND

1 Registrar University of Hyderabad,
Central University (PO) Gachibowli, Hyderabad- 500 134
2 Prof.Bh.Krishna Murthy (Chairman, Selection Committee & Vice Chancellor)
University of Hyderabad Gachibowli, Hyderabad- 500 134
3 Dr.D.P.Pattanayak (Member, Selection Committee)
Director, (Retd.) CIIL, Bogadi Road,
Mysore 570 006
4 Prof.H.S.Ananthanarayana (Member, Selection Committee)
Department of Linguistics Osmania University
Hyderabad- 500 007
5 Prof.C.Rama Rao (Member, Selection Committee)
School of Language Development Telugu Bhavanam Complex,
Telugu University, Osmania University Campus Hyderabad--500 007
6 Prof.G.V.Subrahmanyam (Member, Selection Committee)

Dean, School of Humanities University of Hyderabad,
Central University (PO) Gachibowli, Hyderabad-500 134

7 Prof.Udaya Narayan Singh (Member, Selection Committee)
Professor in-charge, Centre for Applied Linguistics & Translation Studies,
University of Hyderabad, Central University (PO) Gachibowli, Hyderabad- 134
8 Prof.Singh Member, Selection Committee
Visitors Nominee (for School of Humanities on 30/11/89) University of
Hyderabad,Central University (PO) Gachibowli, Hyderabad-500 134
9 Dr.Panchanama Mohanty Department of Linguistics
Berhampur University, Bhanja Bihar,
Berhampur 760 007

**.....RESPONDENT(S)**

**Counsel for the Appellant : MR.MOVVA.CHANDRASHEKAR RAO**

**Counsel for the Respondents 1 to 8: MR.C.V.NAGARJUNA REDDY**

**Counsel for the respondent No.9: Mr V.L.N. Gopalakrishna Murthy,**

**The Court made the following :**

JUDGMENT: (Per BSSR,J)

1. This Writ Appeal is directed against the judgment dated 11-12-1998 in W.P.No.17628 of 1989, whereby the learned single Judge directed the Vice Chancellor of the respondent-University to appoint a Committee of atleast three experts who could examine as to whether the Diploma which R9 possessed was in fact equivalent to Masters Degree in Applied Linguistics or not?

2. The core issue in the Writ Petition rages around the legality of the selection of Reader in Centre for Applied Linguistics and Translation Studies by University of Hyderabad (Central University), Hyderabad. The writ appellant is the writ petitioner in W.P.No.17628 of 1989. He filed the writ petition seeking the following relief:

> " For the reasons stated in the accompanying affidavit, the Honourable Court may be pleased to issue an order, direction or writ especially one in the nature of Writ of Mandamus calling for the records pertaining to the respondent No.1 order No.UH/R/Rect/89/T/706, dated 4.12.1989 in appointing the respondent No.9 to the post of Reader in Applied

Linguistics based on the recommendation of the Selection Committee consisting of respondent Nos.2 to 8 and quash the same as illegal, arbitrary, unjust and violative of Articles 14 and 16 of Constitution of India besides being violative of principles of natural justice and pass such further or other orders as the Honourable Court may be pleased to deem fit and proper."

3. The facts giving rise to filing of this Writ Appeal may be briefly stated as follows:

The University of Hyderabad issued an employment notification in May 1988 calling for applications for the post of (1) Reader in Applied Linguistics and (2) Reader in Translation studies in Centre for Applied Linguistic and Translation Studies. R1 was one of the applicants applied for the post of Reader in Applied Linguistics. None was selected to the post of Reader in Applied Linguistics Department and the selection committee allowed the post to remain vacant. For the very same post, another notification was given on 31.5.1989. Pursuant to the notification number of applicants responded. The petitioner and R9 were among them who responded to the notification-dated 31.5.1989. The selection committee consisting of R2 to R8 interviewed the candidates and selected R9 to the post of Reader in Applied Linguistics. R1-University issued appointment order No.UH/R/Rect/89/T/706 dated 4/5-12-1989. The petitioner who is an unsuccessful candidate filed writ petition questioning the selection of R9 to the post of Reader in Applied Linguistics on the ground that R9 was ineligible to apply to the notified post. It is averred in the affidavit filed in support of the writ petition that R9 had no prescribed qualification and teaching experience as on the date of notification and thus he was ineligible to be considered to the post of Reader in Applied Linguistics. R1 and R9 filed counters resisting the writ petition. It is the case of R9 that he possessed post M.A. Diploma and Advanced Diploma in Linguistics which are equivalent to Masters Degree in Linguistics and that he possessed requisite number of years of teaching experience as on the date of interview and thus he satisfied the prescribed qualifications in the notification. The learned single Judge having noticed that R9 lacks requisite number of years of experience as on the date of notification did not choose to quash the selection on the basis of pure equities. We deem it appropriate to refer the relevant portion of the impugned judgment and it reads as under:

" So, in the present case also almost ten years have passed after the selection had been made. Therefore, following the decision of the Supreme Court, although holding that the respondent No.9 had not been eligible on the crucial date and he should not have been considered at all for selection, I am of the view that it will be harsh on respondent No.9 if his selection and consequential appointment is quashed after ten years. Had he not been selected or considered for appointment, perhaps he would have been considered or even selected in subsequent selections, but in between he has lost ten years. Therefore, though I agree that the arguments made by the learned counsel for the petitioner, yet the selection cannot be quashed on the basis of pure equities."

4. With regard to the second objection, which has been taken by the petitioner as to the educational qualification, the learned single Judge directed the Vice Chancellor of 1st respondent-University to appoint a committee to consider whether the diplomas which R9 possessed were in fact equivalent to Masters Degree or not. We deem it appropriate to refer the relevant portion of the impugned judgment and it is thus:

" Therefore, I direct the Vice Chancellor of the respondent University to appoint a committee of atleast three experts who would examine whether the diplomas which the respondent No.9 possessed were in fact equivalent to Master's degree or not. After the report is submitted by the Committee, which should be obtained within a period of one month after its appointment by the Vice Chancellor, the Vice Chancellor should act on the basis of the recommendation made by the said committee. If the Committee comes to the conclusion that the qualifications possessed by respondent No.9 were not equivalent to the M.A. in Applied Linguistics, the services of respondent No.9 shall be terminated. However, if they come to the conclusion that the qualifications possessed by respondent No.9 were equivalent to the Master's degree in applied Linguistics his appointment shall stand.

Before departing with the case, I would like to give following direction to the respondent University authorities so that in future there are no such controversies:

a. It should be specified in the advertising notice that the candidates should possess the qualification on the date when the applications are received.

b. In case a qualification is laid down as eligibility for a post and

there is other equivalent qualification to that qualification, that should be specified in the advertisement itself so that no person who has an equivalent qualification can be deprived of competing for the post and no person gets a benefit who has no basic qualification but even then claims that he had an equivalent qualification.

With these observations this petition is disposed of."

5. Learned counsel appearing for the appellant/petitioner submits that the learned single Judge having held that R9 lacked the basic educational qualification gravely erred in directing the Vice Chancellor to appoint a committee of experts to consider whether the diplomas possessed by R9 are equivalent to M.A. in Applied Linguistics. It is his further submission that R9 had no requisite teaching experience by the last date of receiving applications and therefore he should not have been considered at all for selection. He would also contend that continuance of R9 for number of years will not create any equity in his favour and would not get any sanctity and that any lenient view taken on the facts of the present case in favour of R9, it would be putting a premium on dishonesty and fraudulent practice. In support of his submissions he placed reliance on a large number of decisions of Supreme Court and this Court and they are:

1. J.P.KULSHRESHTHA V. ALLAHABAD UNIVERSITY
2. DISTT. COLLECTOR & CHAIRMAN, VIZIANAGARAM SWRS SOCIETY v. M.TRIPURA SUNDARI DEVI
3. REKHA CHATURVEDI V. UNIVERSITY OF RAJASTHAN
4. ASHOK KUMAR SHARMA V. CHANDER SHEKHAR
5. BHUPINDERPAL SINGH V. STATE OF PUNJAB
6. K.SHEKAR V. INDIRAMMA
7. RAJENDRA PRASAD v. KARNATAKA UNIVERSITY
8. NAGESHWARAMMA V. STATE OF A.P
9. A.P.CHRISTIANS MEDICAL EDUCATIONAL SOCIETY V.

GOVERNMENT OF A.P

10. S.B.DWARAKANATH V. R.DILIP KUMAR

11. ANDHRA PRADESH SCHEDULED TRIBES EMPLOYEES ASSOCIATION V. ADITYA PRATAP BHANJ DEV

12. N.B.RAMESH V. B.KRISHNA REDDY

6. In J.P.KULSHRESHTHA V. ALLAHABAD UNIVERSITY, the Supreme Court held that while there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies. If the Chancellor or any other authority lesser in level decides an academic matter or an educational question, the court keeps its hands off, but where a provision of law has to be read and understood, it is not fair to keep the court out.

7. In DISTT. COLLECTOR & CHAIRMAN, VIZIANAGARAM SWRS SOCIETY v. M.TRIPURA SUNDARI DEVI, the Supreme Court held that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possesses the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications in such circumstances be a party to the perpetuation of the fraudulent practice.

8. REKHA CHATURVEDI V. UNIVERSITY OF RAJASTHAN, the Supreme Court held that in absence of a fixed date indicated in the advertisement/notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for scrutiny of the qualifications will be the last date for making the applications. When the Selection committee took into consideration the requisite qualifications as on the date of selection rather than on the last date of preferring applications, it acted with patent illegality, and on this ground itself the selections in question are liable to be quashed. It is useful to refer para 10 of the

cited judgment and it is thus:

> " THE contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are qualified for the posts in question or not, if they are yet to acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. We have, therefore, no hesitation in holding that when the Selection Committee in the present case, as argued by Shri Manoj Swarup, took into consideration the requisite qualifications as on the date of selection rather than on the last date of preferring applications, it acted with patent illegality, and on this ground itself the selections in question are liable to be quashed. Reference in this connection may also be made to two recent decisions of this court in A.P. public service commission, Hyderabad v. B. Sarat Chandra and District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram v. M. Tripura Sundari Devi ."

9. In ASHOK KUMAR SHARMA V. CHANDER SHEKHAR the Supreme Court while reviewing the earlier decision held that the majority opinion in ASHOK KUMAR SHARMA's case is unsustainable and amounted to a clear error in law apparent on the face of the record. The majority view in the earlier decision was that in as much as 33 respondents (appellants before them) were qualified by the date of interview though not by the date of advertisement inviting the applications there was no illegality in allowing them to appear for the interview. The Supreme Court reviewing the earlier decision accepted the minority view by judgment dated 10-3-1997 and held as follows:

" 6. THE review petitions came up for final hearing on 3/3/1997. We heard the learned counsel for the review petitioners, for the State of Jammu & Kashmir and for the 33 respondents. So far as the first issue referred to in our Order dated 1/9/1995 is concerned, we are of the respectful opinion that majority judgment (rendered by Dr T.K. Thommen and V. Ramaswami, JJ.) is unsustainable in law. The proposition that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is a well-established one. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it. One reason behind this proposition is that if it were known that persons who obtained the qualifications after the prescribed date but before the date of interview would be allowed to appear for the interview, other similarly placed persons could also have applied. Just because some of the persons had applied notwithstanding that they had not acquired the prescribed qualifications by the prescribed date, they could not have been treated on a preferential basis. Their applications ought to have been rejected at the inception itself. This proposition is indisputable and in fact was not doubted or disputed in the majority judgment. This is also the proposition affirmed in Rekha Chaturvedi v. University of Rajasthan. The reasoning in the majority opinion that by allowing the 33 respondents to appear for the interview, the recruiting authority was able to get the best talent available and that such course was in furtherance of public interest is, with respect, an impermissible justification. It is, in our considered opinion, a clear error of law and an error apparent on the face of the record. In our opinion, R.M. Sahai, J. (and the division bench of the High court) was right in holding that the 33 respondents could not have been allowed to appear for the interview."

10. In BHUPINDERPAL SINGH V. STATE OF PUNJAB the Supreme Court held that the cut off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules and if there be no cut off date appointed by the rules then such date as may be appointed for the purpose in the advertisement calling for applications; and if there is no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications have to be received

by the competent authority.

11. In K.SHEKAR V. INDIRAMMA, the Supreme Court held that the clause in the advertisement enabling selection committee to recommend candidate for lower post than the post applied for does not empower the committee to make appointment on unadvertised post.

12. In UNION OF INDIA AND OTHERS, the Supreme Court held that by committing fraud any employment is obtained, such a fraudulent practice cannot be permitted to be countenanced by a court of law.

13. In RAJENDRA PRASAD v. KARNATAKA UNIVERSITY, the Supreme Court held that it is for each University to decide the question of equivalence of examinations and it would not be right for the Supreme Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University.

14. In NAGESHWARAMMA V. STATE OF A.P, the Supreme Court held that the students who have undergone training in private teacher training institutes established without permission cannot be permitted to appear at the examinations under Art.32 or 226 of the Constitution. These institutions were established and the students were admitted into these institutes despite a series of press notes issued by the Government. If by a fiat of the Court the Government is directed to permit them to appear at the examination Court will practically be encouraging and condoning the establishment of unauthorized institutions. It is not appropriate that the jurisdiction of the Court either under Art.32 of the Constitution or Art.226 should be frittered away for such a purpose. The Teachers Training Institutes are meant to teach children of impressionable age and Court cannot let loose on the innocent and unwary children, teachers who have not received proper and adequate training. True they will be

required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organized and equipped Training Institute is probably essential before a teacher may be duly launched.

15. A.P.CHRISTIANS MEDICAL EDUCATIONAL SOCIETY V. GOVERNMENT OF A.P, the Supreme Court held that the court cannot issue direction to the University to protect the interests of the students who had been admitted to the medical college as that would be in clear transgression of the provisions of the University Act and the regulations of the University. The Court cannot by its fiat direct

the University to disobey the statute to which it owes its existence and the regulations made by the University itself. That would be destructive of the rule of law.

16. In S.B.DWARAKANATH V. R.DILIP KUMAR, this High Court held that in the absence of cut off date specified in advertisement as to acquiring of prescribed qualifications, last date of receipt of applications be taken as relevant date for ascertaining eligibility for selection and appointment.

17. In ANDHRA PRADESH SCHEDULED TRIBES EMPLOYEES ASSOCIATION V. ADITYA PRATAP BHANJ DEV our High Court held that delay in filing writ petition is not a ground to allow appointment obtained by fraud to be enjoyed and that the court cannot allow any fraud to perpetuate itself any longer.

18. In N.B.RAMESH V. B.KRISHNA REDDY, our High Court held that making appointments contrary to the qualifications prescribed in the advertisement or the recruitment rules particularly by the authorities which are instrumental of the State shall not be appreciated as it amounts to playing fraud on the public.

19. In CENTRAL RESEARCH INSTITUTE FOR UNANI MEDICINE NON-GAZETTED EMPLOYEES UNION v. UNION OF INDIA, (W.P.No.8061 of 1991 disposed of on 10-8-1999), this Court held that when an advertisement mentions a particular qualification and an appointment is made with regard to the same, it is not a matter only between the appointing authority and the appointee concerned. Making appointment contrary to the qualifications prescribed in the advertisement or the recruitment rules particularly by the authorities who are the instrumentalities of the State cannot be appreciated as it amounts to playing fraud on the public. While interfering with the selection made in the year 1991 it was observed as follows:

> "It is true that the selections and appointments were made in the year 1991 and the selected candidates including the 5th respondent are functioning in their respective posts. But the petitioner immediately approached this Court invoking its extraordinary jurisdiction under Art.226 of the Constitution of India. The petitioners cannot be blamed if the writ petition could not be disposed of within a reasonable time. This court however, at the time of admission passed an interim order directing the selection already made to be subject to the result of the writ petition. Refusal to interfere by this Court would amount to perpetuating fraud and illegality.
>
> For the aforesaid reasons, the selection and appointment of the 5th respondent alone as the Research Officer (Chemistry) is set aside. The 6th respondent center shall issue a fresh notification for selection and recruitment in the resultant vacancies. The norms for selection and appointment shall be notified by the 6th respondent for the benefit of all eligible candidates. Required criteria shall be evolved to ensure equality of opportunity to all the eligible candidates.
>
> The writ petition is accordingly allowed with costs quantified at Rs.2000/-."

20. Per contra, learned Standing Counsel for R1-University submits that as on the date of scrutiny of the applications, the law prevailed was that the date of interview was the relevant date to consider whether the applicants had requisite qualification and experience and therefore R1-University could not be found fault basing on the subsequent change of law that the last date of receipt of applications was the relevant date to consider the eligibility of the applicant. In support of his submission he placed reliance on the decision of Supreme Court in ASHOK KUMAR SHARMA Vs. CHANDER SHEKHER. The question fell for consideration in the above referred decision is whether or not candidates who are fully qualified to be appointed as

junior Engineer on the date of interview, but whose results have not been declared on the date of submission of their applications were entitled to be considered for appointment to the post of Junior Engineer. The above question has been answered in the affirmative in para 15 of the judgment which reads as follows:

" THE fact is that the appellants did pass the examination and were fully qualified for being selected prior to the date of interview. By allowing the appellants to sit for the interview and by their selection on the basis of their comparative merits, the recruiting authority was able to get the best talents available. It was certainly in the public interest that the interview was made as broad based as was possible on the basis of qualification. The reasoning of the learned Single Judge was thus based on sound principle with reference to comparatively superior merits. It was in the public interest that better candidates who were fully qualified on the dates of selection were not rejected, notwithstanding that the results of the examination in which they had appeared had been delayed for no fault of theirs. The appellants were fully qualified on the dates of the interview and taking into account the generally followed principle of Rule 37 in the State of Jammu & Kashmir, we are of opinion that the technical view adopted by the learned Judges of the division bench was incorrect and the view expressed by the learned Single Judge was, on the facts of this case, the correct view. Accordingly, we set aside the impugned judgment of the division bench and restore that of the learned Single Judge. In the result, we uphold the results announced by the recruiting authority. The appeal is allowed in the above terms. However, we make no order as to costs."

The judgment in the above cited case came to be reviewed by the Supreme Court on 10-3-1997. In the review, the minority opinion was approved while holding the majority opinion as impermissible justification.

21. The learned counsel appearing for R9 submits that the learned single Judge after considering the entire material on record directed the Vice Chancellor to appoint a committee to examine whether the Diplomas possessed by R9 are equivalent to Masters Degree in applied linguistics and that the Vice Chancellor constituted a committee in pursuance of the directions given by the learned single Judge and the said committee examined the matter and submitted a report opining that two diplomas viz., Post M.A. Diploma in Linguistics and Advanced Diploma in Applied Linguistics possessed by Dr.Panchanan Mohanty are equivalent to M.A. in

Applied Linguistics and thus the selection and appointment of R9 as Reader in Applied Linguistics cannot be disturbed at this distance of time.

22. Before dwelling on the rival contentions, we deem it appropriate to refer the qualifications and experience required for the post of Reader in Centre for Applied Linguistics and Translation Studies and they are as follows:

a. A first or high second class Master's degree in the subject concerned and consistently good academic record;

b. A doctorate degree and considerable published work of high standard;

c. At least five years post-graduate teaching experience or five years of post graduate teaching experience and post doctoral research experience taken together.

As per the general information, the University reserves the right to relax any of the qualifications, experience, age etc. in exceptional cases in respect of all posts on the recommendations of the Selection Committee. Clause (5) of the general information reads as follows:

" 5. GENERAL

i. Reservations in respect of teaching posts (LECTURERS ONLY) exist as per University Rules for candidates belonging to SCHEDULED CASTES AND SCHEDULED TRIBES.

ii. The prescribed qualifications and experience are the minimum and the mere fact that a candidate possesses the same will not entitle him/her for being called for interview. The University reserves the right to restrict the candidates to be called for interview to a reasonable number on the basis of qualifications and experience higher than the minimum prescribed.

iii. It would be open to the University to consider the names of suitable persons who may not have applied.

iv. The University reserves the right to relax any of the qualifications, experience, age, etc. in exceptional cases in respect of all posts on the recommendations of the Selection Committee.

v. The number of vacancies indicated in this information leaflet is tentative. The University reserves the right to increase/decrease the number of posts at the time of selections and make appointments accordingly.

vi. Payment of T.A.: Outstation candidates called for interview will be paid contribution equivalent to return single second-class railway fare towards journey expenses.

vii. Canvassing in any form on behalf of any candidate will disqualify such candidates."

We may note here that the University reserves the right to relax any of the qualifications, experience, age etc. in exceptional cases in respect of all posts on the recommendation of the selection committee.

23. Few dates that are relevant to be noted and they are as under:

a. Last date of receipt of application 15.7.89.

b. Interview for the notified posts was held on 30.11.89.

c. Appointment order to R9 was issued on 4/5-12-89 directing to report to the Dean, School of Humanities on or before 17.1.1990. R9 sought extension of time and joined duty on 2.6.90.

d. The appellant/petitioner filed Writ Petition even before R9 reported for duty. This fact was recorded by the learned single Judge on 25.1.1990. The order passed on 25.1.90 reads as follows:

> " Post the writ petition for final hearing subject to part heard cases on 19.2.90. Post the WPMP along with the main writ petition. By the impugned order, the R9 was asked to join duty on or before 17-1-90. From the records produced by Sri.V.Rajagopal Reddy, learned counsel appearing for the University, it appears that R9 requested the University to grant him further time, for joining duty, till 1-5-90. From the note it appears that the University has granted time till 14.4.90 to report for duty. It is accordingly recorded."

24. It has come on record that R9 joined duty as Reader on 2.6.90. It appears that the appellant also got selection as Reader in the year 1991. This makes us to know that both the appellant and R9 are working as Readers in Center for Applied Linguistics and Translation Studies. The appellant challenged the selection of R9 as Reader in Center for Applied Linguistics and Translation Studies for more than one

reason. One of the reasons is that R3 has favoured R9 on the ground of soil infinity and caste favoritism Para 11 of the writ petition reads as follows:

> " 11. The selection of the respondent No.9 is vitiated by malafides as the respondent No.3 has got his in favour of the respondent No.9. Both of them hail from the state of Orissa. It is learnt that both are related. It is further learnt that the respondent No.9 was called for the interview when the Reader post was first notified in the year 1988 at the instance of the respondent No.3 even though the respondent No.9 was not qualified since he did not possess five years of teaching experience. The post of Reader in Applied Linguistics though notified, applications were called for and interviews were held, was not filled in since the respondent No.9 was not eligible for the post. On 31-5-1989 and the interviews were further delayed so as to enable the respondent No.9 to complete the five years of teaching experience. Thus, it is evident that the respondent Nos.2 to 4 in order to accommodate the respondent No.9 have adopted dubious means, ignoring the factum that they have come under severe criticism by this Hon'ble Court in the earlier writ petition where the petitioner was a successful candidate."

25. The respondents have specifically denied of the relationship between R3 and R9. The appellant is a Doctorate and he belongs to the category of high intellectuals. It is not the desire of any one to born in a particular region or community or caste. The birth of a person in a particular region, community or caste is accidental and one has to accept it. It disintegrates with the death of a person. The appellant having made such an uncharitable allegation against R3 has failed to substantiate the same. The decision in ASHOK KUMAR SHARMA V. CHANDER SHEKHAR disposed of on 18.12.1992 was governing the field by the date of the selection and appointment of R9. In this background, we do not find any flaw in the finding of the learned single Judge that the selection of R9 cannot be quashed on the basis of pure equities. With regard to the qualifications the learned single Judge directed the Vice Chancellor to appoint a committee to consider whether Diplomas possessed by R9 were equal to Master's Degree in Applied Linguistics. Such a course is not essential since the general clauses in the notification empowers the University to relax any of the qualifications, experience, age, etc. in exceptional cases in respect of all posts on the recommendations of the Selection Committee. However, since the committee appointed by the Vice Chancellor in pursuance of the directions of the learned single Judge has taken into various aspects such as

syllabus prescribed for Post M.A. Diploma and Advanced Diploma and M.A. in

Applied Linguistics and recorded a verdict. The Supreme Court held in RAJENDRA PRASAD v. KARNATKA UNIVERSITY that it is for each University to decide the question of equivalence of examinations and it would not be right for the Court to sit in judgment over the decision of the University because it is not a matter on which the court possesses any expertise. Such is the situation, it cannot be permitted to contend that R9 lacks necessary educational qualification for being appointed as a Reader in Center for Applied Linguistics and Translation Studies.

26. In view of the facts and circumstances of the case, the selection and appointment of R9 as Reader in Center for Applied Linguistics and Translation Studies, University of Hyderabad, Hyderabad is not required to be disturbed. In the result, this Writ Appeal fails and the same is dismissed.

Tnb

Dated: 27-12-2004. ( G.Bikshapathy, J )

( B.Seshasayana Reddy, J )

.....REGISTRAR

**To**

1. Registrar University of Hyderabad,
   Central University (PO) Gachibowli, Hyderabad- 500 134

2. 2 CD copies